# **MS4 Permit Renewal Meeting**

CDPHE: 4300 Cherry Creek Drive S., Denver CO

C1C and D, Building C

February 19, 2013

9-11:30 am

### **Topics**

- Public Education
- Construction
- Illicit Discharge
- County Coverage

### <u>Agenda</u>

9 - 9:10 am

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9:10 – 9:45 am	Public Education—concept language
9:45 – 10:30 am	Construction—concept language
10:30 – 11:15 am	Illicit Discharge

Sign in / Introductions

11:15 – 11:30 am County Coverage—concept language

Meeting attendees are encouraged to familiarize themselves with the Supplemental Information as well the targeted permit questionnaire developed by the Division to understand the specific challenges with the current permit language; and to help brainstorm ideas and solutions during permit renewal meetings.

The goal for all permit elements is to have clear expectations, which establish a basic standard of performance for all permittees that are auditable by the Division.

Dial-in access will be provided to all permittees before the meeting. Please contact Michelle DeLaria at 303.692.3615 or <u>Michelle.DeLaria@state.co.us</u> with any questions.

### Supplemental Information\*

- **1. Public Education—concept language:** The following are concepts for enforceable requirements in the Public education program area.
  - a. The permittee must have a website that provides the following:
    - The Municipal Separate Storm Sewer General Permit with an explanation that the Permittee holds a certification under the general permit and must meet the general permit requirements.
    - Stormwater permit requirements including the 6 program areas of Public Education, Public Participation, Illicit Discharge, Detection and Elimination, Construction, Post Construction, and Municipal operations.
    - A description of the permittee's specific program elements within the six program areas to meet the stormwater permit requirements, and the pollutants of concern.
    - Local contact information of the stormwater program contact who is provided to the Division as the local contact.
  - The permittee must conduct and document outreach activities about the impacts of stormwater discharges on water bodies and impairment and the steps that the public can take to reduce pollutants in stormwater runoff; and
    - The outreach materials/ stormwater quality information and activities must include a basic message that stormdrains drain to surface water bodies and not wastewater treatment facilities.
    - The outreach materials (any messaging), and activities must target the pollutants of concern and behaviors contributing to them.
    - The permittee must make stormwater quality information (media and verbal) available at points of public contact (e.g., Municipal offices, inspectors, code enforcement.) Note: This requirement may include minimum points of contact.
    - The permittee must select activities from the following table that total up to 10 or more points:

	.5 points	1 point	2 points
Articles in Papers	1 focused article	Annual	2 Annually
Billboard/bus shelter signs			for 5 years
Booth at Fair	Annual open house/small event	Annual Large event	
Brochures	Available in offices		Every household during term
Clean up days (e.g., str	eam, leaf, etc)		annual

Household Hazardous Waste Collection	Advertise Only     Offering and supporting	Advertise and Organize	Operate and maintain facility and or pick up
Pet Waste Bag Dispenser Station		All municipal parks	
Pet Waste Signs		All municipal parks	
Public Service Announcements/Radio Ads	Produced and sent to stations, getting air		
School Presentations/ School age programs		Developed, and provided to schools on request	
Storm Drain Stenciling		Require all new drains to be stenciled or stencil some high profile drains	Maintain stenciling on all drains
Tributary Signage		All waterways	
TV Program	annual program	30 minute spot of rotation on TV	
SW fact sheet to commercial/ ind		Annual	
Stormwater hotline	with proactive advert	ising (e.g., sending out fliers, posti	ng signs, etc)
Demonstration garden	maintained		
e-newsletter	annually with readership numbers		
Water bill inserts	annually		
Signs at illegal dumping sites	commitment to # of signs per year	with replacement program	
Survey (Bi-Annual)			
facebook/social medial postings	maintained		

c. The Division is seeking ideas for enforceable requirements in the next permit for Regulation 85.5(4) requirements.

The following requirements, at a minimum, shall be incorporated into a CDPS Permit for discharges from a Municipal Separate Storm Sewer System (MS4) required to obtain a CDPS Permit pursuant to Regulation #61.

(a) Public education and outreach on stormwater impacts associated with nutrients. The MS4 permittee must develop, document, and implement a public education program to reduce water quality impacts associated with nitrogen and phosphorus in stormwater runoff and illicit discharges and distribute educational materials or equivalent outreach to targeted sources (e.g., residential, industrial, agricultural, or commercial) that are contributing to, or have the potential to contribute, nutrients to the waters receiving the discharge authorized under the MS4 permit.

CDPS Permits shall authorize MS4 permittees to meet the requirements of this section through contribution to a collaborative program to evaluate, identify, target and provide outreach that addresses sources state-wide or within the specific region or watershed that includes the receiving waters impacted by the MS4 permittee's discharge(s).

- 2. Construction—concept language: This is a continuation from the previous meeting where the Division discussed the need to have more clear, enforceable requirements in the Construction program area of the general permit.
  - a. Division Goals for compliance assessment:
    - Clear requirements in the general permit so the permit is self implementing and the Division does not have to review submitted program description documentation.
    - Increased transparency when sites are out of compliance
    - Increased burden for non-compliance
    - Document return to compliance
  - b. Concepts for compliance assessment:
    - All unstabilized construction sites must be posted on the permittee's webpage with identifying location information.
    - The permittee must establish an inspection frequency for routine inspections during the course of the construction project - allow documented waivers?
    - For permittees with a routine inspection frequency greater than every 14 days as an annual average, the following is required:
      - 1. Document the routine inspection on a formal inspection form that contains the following content and prompts for information:
        - a. A statement that all BMP violations are enforceable until corrected and each day of violation counts as a separate offense with the corresponding citation of the Permittee's regulatory mechanism.
        - b. Description of weather
        - c. Description of phase of construction
        - d. Project name
        - e. Identifying location information
        - f. List of common construction site BMPs
        - g. Space to add all BMPs used on the site not listed in the pre printed form
        - h. Indication of the status of each control measure implemented stating whether it is: in compliance; needs maintenance, replacement or repair; or not present and required.
        - i. Confirmation that all disturbed areas flow through a

maintained sediment control measure prior to discharging from the site.

- 2. The permittee must post the inspection reports on the permittee's webpage when sites are out of compliance.
- 3. The permittee must document all follow up inspections and a return to compliance and post compliance and enforcement status on the permittee's webpage.
- For permittees with a routine inspection frequency every 14 days or more frequent as an annual average, the following is required:
  - 1. Document the routine inspection on a formal inspection form that contains the following content and prompts for information:
    - a. A statement that all BMP violations are enforceable until corrected and each day of violation counts as a separate offense with the corresponding citation of the Permittee's regulatory mechanism.
    - b. Description of weather
    - c. Description of phase of construction
    - d. Project name
    - e. Identifying location information
    - f. List of common construction site BMPs
    - g. Space to add all BMPs used on the site not listed in the preprinted form
    - h. Indication of the status of each control measure implemented stating whether it is: in compliance; needs maintenance, replacement or repair; or not present and required.
    - Confirmation that all disturbed areas flow through a maintained sediment control measure prior to discharging from the site.
  - 2. The permittee must document all follow up inspections and a return to compliance.

### 3. Illicit Discharge

- c. Current Challenges/Observations: Current process for occasional, incidental nonstormwater discharge does not result in transparency regarding documentation. Some MS4s are allowing non-storm discharges with significant pollutant potential. There is a lack of clarity in Division expectations in what non-stormwater discharges must be controlled and what constitutes adequate response and enforcement expectations.
- d. Goal: Provide clear, enforceable requirements.
- e. Some permittees have developed a list of occasional incidental non-stormwater discharges or expanded the list provided in the first paragraph of Part I.B.3(a)(5). The Division is seeking a discussion on the information that permittees use to make a determination that occasional incidental non-stormwater discharges are not a significant contributor of pollutants to the MS4.
  - Part I.B.3(a)(5) second paragraph.

"The permittee may also develop a list of occasional incidental non-stormwater discharges similar to those in the above paragraph, (e.g., non-commercial or charity car washes, etc.) that will not be addressed as illicit discharges. These non-stormwater discharges must not

be reasonably expected (based on information available to the permittee) to be significant sources of pollutants to the MS4, because of either the nature of the discharges or conditions the permittee has established for allowing these discharges to the MS4 (e.g., a charity car wash with appropriate controls on frequency, proximity to sensitive waterbodies, control measures, etc.). The permittee must document in their program any local controls or conditions placed on the discharges."

- f. Concept Language for enforceable requirements:
  - The regulatory mechanism must clearly state that an illicit discharge is an enforceable violation subject to enforcement from the moment it is identified to the moment it is corrected.
  - Any exclusions, exemptions, waivers and variances, that may be present in the regulatory mechanism or program documentation must be accompanied by additional documentation to clarify that exclusions, exemptions, waivers and variances will not be applied in a manner that creates a non compliance with the permit.
  - The permittee must have a centralized recordkeeping system to compile complaints across all intake points (e.g., stormwater hotline, fire department, police department, code enforcement, field staff).
  - The permittee must document all actions taken in response to incidents in accordance with the permittee's illicit discharge procedures.
  - The permittee must document all response actions taken that would relate to closing the incident file.
  - All allowable non storm discharges must be submitted to the Division.
- g. General concept of enforceable permit requirement format:
  - A) The permittee must trace the source of an illicit discharge when identified at an outfall or within the MS4. The permittee must have tool(s) available to allow the tracing from the outfall to inlets either by backtracking or identifying the potential inlets and screening those. Required documentation includes the procedures, tools and training described below in addition to records of all illicit discharges and the responsible party if identified. The Program Description Document must include a summary of the below elements that also contains the names and location of the required documentation.
    - 1) Procedures identifying how the point of entry is identified into the system for an ID identified within the system or at an outfall.
    - 2) The specific tools that are available to the permittee for use that will allow the tracing, including as applicable: storm sewer maps, Dye tracers, cameras, aerial maps, etc
    - 3) The training materials and schedule for employees
- h. Additional concept to discuss:
  - Enforcement Response Plan A written procedure that ensures a uniform enforcement response for comparable violations.
    - 1. Ensure that violators return to compliance as quickly as possible.
    - 2. Deter future noncompliance.
    - 3. Penalize violators.

### 4. County Coverage—concept language

For all counties required to obtain coverage under this permit, the geographic area of permit coverage is the following:

- Census designated urbanized areas must comply with programs 1 through 6 of the permit.
- Buffer Areas identified (i.e., map) by the permittee and approved by the
  Division as having high growth potential (e.g. land development density of 1000
  people/sq mile) must comply with programs 2, 4 and 5 of the Permit.
- a) Counties required to obtain coverage under this permit must notify the Division of any land development approval outside of the Urbanized areas and buffer areas that is greater than **10 acres** and a proposed density of 1000 people/sq mile within 30 days of the **land use application approval** by providing the following information:
  - Name of project
  - Identifying location information of project
  - Size of project
  - Number people projected at full completion of the project
  - Density of project in people/square mile of the project.
- b) The Division will use permittee notifications of approved development in(c) above for potential boundary modification.

Note, the county maps must be public noticed. The Division plans to reference the maps in the fact sheet for transparency.

<sup>\*</sup>Supplemental Information is intended to provide general concepts and commonly encountered challenges with current permit language. It is not intended to be an exhaustive accumulation and description of all specific elements to be addressed in the permit renewal.

#### **Summary**

The summary was compiled after the meeting on 2/19/13. The summary is not a verbatim transcript of the meeting and points of potential agreement have not been included because the meeting goal was to share information to facilitate permit drafting, and not to make decisions or to obtain stakeholder commitments. Bulleted points may not follow the order of actual discussion.

#### 1. Public Education:

- Some comments to the Division regarding the concept language included:
  - i. Permittees were generally not in favor of posting detailed program descriptions on permittee webpages.
  - ii. Permittees with more detailed or interactive website should receive more points.
  - iii. Add field-based/interactive educational activities to the table and weigh more heavily.
  - iv. Incorporate regulation 85 requirements into the table of activities.
- The following is another activity table concept based picking activities from each column:

Pick 3 from the list below	Pick 2 from the list below	Pick 1 from the list below
Article published (in print or online)	Stormwater Activities: Games, Poster Contest	Participate in a Water Festival
Educational Material Distribution (such as a brochure, fact sheet, etc)	Social Media Program	Participate in A Clean Up Event/Service Project
Utility Bill Insert	Educational Material Distribution- targeted specific to commercial/industry	Stormwater Booth at a Community Event
Stormwater Hotline Number or other method for and individuals to report an illicit discharge or get more information about the stormwater program.	Storm drain stenciling or marking conducted by staff	Participate/promote/sponsor a Household Hazardous Waste Event
Advertising – Bus Shelters	Targeted printed material addressing specific pollutants of concern such as:  Pet Waste  Nutrients	Motor Vehicle Fluids Recycling Program
Advertising- Audio (radio)	Give-aways (promotional items and/or items that encourage behavior change DVD's, Bumper Stickers)??	Municipality has an Adopt A Street/Waterway Program
Advertising – On a bus/vehicle	Signage/Educational Material with Stormwater Message targeting a specific pollutant or Illegal Discharge/Dumping such as pet waste signage, car wash signage, etc	School Presentations
Advertising – In a newspaper	Pet Waste Stations	Citizen Survey
Advertising - PSAs (Segment on TV)	Tributary Signage	Promote local stormwater/environmental events (Water Festival, Creek Clean Up, etc.)

Advertising – On a bench	Stormwater Demonstration Garden that displays BMPs or other pollutant reduction methods
Advertising –Billboard	Storm drain stenciling or marking program with Public/Community Participation
Advertising –Movie	Speaker Presentations

# \*\*\*Division request

The Division would like feedback on the activity table concepts. Specifically, which concept is preferred by permittees: a point system similar to the version provided in the supplemental information or picking a certain number from each column, similar to above? Note this question is limited to the table concept and not the content in either table, as the content language and location in the tables may change. The Division is happy to receive edited versions of both concept tables for consideration, or another concept.

#### **2.** Construction:

- Some comments to the Division regarding the concept language included:
  - i. Instead of "inspection" consider the term "oversight" to include non-field based compliance assessment.
  - ii. Permittees are generally not in favor of a prescribed frequency of inspection, required inspection at various phases/stages of development, increased transparency for non compliance, or specifying inspection elements in the permit.
  - iii. Some permittees voiced concerns about administrative burden of required documentation and posting on a webpage, as well as the legality of posting inspections on a webpage.
- The Division asked permittees with successful programs to highlight the elements of success that can be articulated as permit requirements; and determine what level of documentation is not burdensome.

### \*\*\*Division request

The Division would like ideas from permittees on enforceable requirements in the permit regarding the combination of site plan approval, inspection and enforcement activities.

### 3. Illicit Discharge:

- Permittees were asked to provide feedback on the information and documentation that is used by the permittee to make a determination that an occasional, incidental non-stormwater discharge is not a significant contributor of pollutants.
- The Division asked permittees about measurable permit requirements to meet Division expectations for the 2nd paragraph in Part I.B.3(a)(5).

- The Division posed deleting the 2<sup>nd</sup> paragraph in Part I.B.3(a)(5) and addressing discharges (e.g., dye testing, charity car wash) through the "allowable discharges" list in 1st paragraph in Part I.B.3(a)(5) and the Division's Low Risk discharges list.
- Some permittees indicated that centralized record keeping of illicit discharges is difficult
  for counties or entities with special districts or volunteer fire departments because they
  are difficult to coordinate with, unless there is an IGA.

Note: the Illicit Discharge discussion will continue at the next meeting.

# 4. County Coverage

- Some Comments to the Division regarding the concept language included:
  - i. The term "land use approval" may be too broad. The Division should to refine the language regarding "land use approval" or define the term with specific land development process that should trigger notification to the Division.
  - ii. Permittees prefer to notify the Division of land use changes, as detailed in the concept language, in the annual report instead of at the time of permittee approval.
  - iii. The Division should clarify if the concept language and notification requirement apply to both residential and commercial projects.
  - iv. The Division needs to address waivers in the buffer area.

#### Recommended items to review:

- Broomfield Construction Site Enforcement Response Guide—attached in email.
- Utah General MS4 permit information: http://www.waterquality.utah.gov/UPDES/stormwatermun.htm